Revealing of Participatory Notes holders names by FIIs

*564. SHRI ABU ASIM AZMI†:
SHRI SHAHID SIDDIQUI:

Will the Minister of FINANCE be pleased to state:

(a) whether it is a fact that Foreign Institutional Investors are not bound to reveal the names of Participatory Notes holders which goes against the well established concept of 'know your customers', norms practiced world over;

(b) if so, what are the reasons therefor;

(c) whether it is also a fact that FIIs are not allowed to issue PNs to Indian Nationals, persons of Indian origin;

(d) if so, the details thereof and the reasons therefor; and

(e) what steps Government have taken to ensure that terrorists operating from tax haven and routing their investments and wrecking havoc on the Indian stock market are not allowed?

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): (a) to (e) A Statement is placed on the Table of the House.

Statement

(a) to (d) The Securities and Exchange Board of India (SEBI) Act, 1992 empowers SEBI to register and regulate Foreign Institutional Investors (FIIs). Under the Act, SEBI has framed the SEBI (FII) Regulations, 1995. In terms of these Regulations, an FII may issue Participatory Notes (PNs) with Indian instruments (equity/debt/derivative) as the underlying securities, subject to the subscriber being a regulated entity. Further downstream issueance of PNs, if any, can also be done to regulated entities only. The Regulations also require the FIIs, which issue PNs, to file a report in a prescribed format at the end of each month. In this report, amongst other information, the FII has to disclose the names of all subscribers to the PNs issued by it. The reporting format also contains an undertaking wherein the FII declares that it or its associates have not issued/subscribed/ purchased any PNs to/from Indian residents/NRIs/PIOs/OCBs during the reporting period.

†The question was actually asked on the floor of the House by Shri Abu Asim Azmi.

(e) Adequate systems and safeguards to deal with illegal activities on the Indian Stock market are in place.

The Foreign Exchange Management Act, (FEMA) 1999 has provisions to deal with cases of unauthorized transfer of foreign exchange including through hawala.

The Prevention of Money Laundering Act, 2002 and Rules thereunder have come into effect from 1st July, 2006. Under the Act and Rules, banking companies, financial institutions and intermediaries are obliged to verify the records of identity of clients.

The Unlawful Activities (Prevention) Act, 1967, as amended in September, 2004, has provisions to combat financing of terrorism.

The Foreign Contribution (Regulation) Act, 1976 (FCRA), also regulates and monitors receipt and use of foreign funds by the recipients.

At the international level, India, is a member of Asia Pacific Group (APG) on Anti-Money Laundering and Combating of Financing of Terrorism and has Observer status in the Financial Action Task Force (FATF).

श्री अबू आसिम आज़मी: चेयरमैन सर, मैं आपके माध्यम से मंत्री जी से यह जानना चाहता हूं कि Foreign Institutional Investors द्वारा देश में बहुत ज्यादा पैसा आया है। यह पैसा किस-किस देश के द्वारा और कितनी मात्रा में आया है? क्या यह सही है कि इन Investors द्वारा भेजे गए पैसों का पुणे शहर के अंदर हजारों करोड़ रुपए का घोटाला हुआ है, यदि यह सही है तो इसका विवरण क्या है?

+ **شری ابو عاصم اعظمی :** چیئرمین سر، میں آپ کے مادھیم سے منتری جی سے یہ جاننا چاہتا ہوں کہ Foreign Institutional Investors کے ذریعے دیش میں بہت زیادہ پیسہ آیا ہے۔ یہ پیسہ کس کس دیش کے ذریعے اور کتنی ماترا میں آیا ہے؟ کیا یہ صحیح ہے کہ ان Investors کے ذریعے بھیجے گئے پیسوں کا پونے شہر کے اندر ہزاروں کروڑ روپے کا گھوٹالہ ہوا ہے، اگر یہ صحیح ہے تو اس کا ووِرن کیا ہے؟

SHRI P. CHIDAMBARAM: Sir, unless the hon. Member gives me more particulars about the case which he has in mind in Pune, I won't be able to answer that part of the question. But, as far as the Foreign Institutional

+[ ]Transliteration of Urdu Script.

Investors are concerned, they come from all parts of the world. Most of the FIIs have their headquarters in the United States, in European countries and some in the South East Asian countries, especially headquartered in Singapore, Hong Kong and Tokyo. So, FIIs come from all parts of the world.

श्री अबू आसिम आज़मी: सर, मेरा सेकन्ड सप्लीमेंट्री यह है कि क्या यह सही है कि राष्ट्रीय सुरक्षा सलाहकार ने एक बयान में कहा है कि आतंकवादी मुम्बई और चेन्नई स्टॉक एक्सचेंज मार्केटिंग में काफी पैसा लगा रहे हैं, वे कौन-कौन से आतंकवादी संस्थान हैं, जो इसमें लिप्त हैं और उनके द्वारा कहां और कितनी मात्रा में पैसा लग गया है? ...(व्यवधान)...

†[**شری ابو عاصم اعظمی :** سر، میرا سیکنڈ سپلیمنٹری یہ ہے کہ کیا یہ صحیح ہے کہ راشٹریہ سرکشا صلاح کار نے ایک بیان میں کہا ہے کہ آتنک وادی ممبئی اور چننی اسٹاک ایکسچینج مارکٹنگ میں کافی پیسہ لگا رہے ہیں، یہ کون کون سے آتنک وادی سنستھان ہیں، جو اس میں لپت ہیں اور ان کے ذریعے کہاں اور کتنی ماترا میں پیسہ لگایا گیا ہے؟ ۔مداخلت۔]

श्री सभापति: यह और पूछ लीजिए कि आपका उनसे परिचय कब से है?

श्री अबू आसिम आज़मी: सर, मेरे प्रश्न का दूसरा पार्ट यह है कि अभी हमने अखबार में एक न्यूज पढ़ी थी, नेशनल सिक्यूरिटी एडवाइजर के जरिए अखबार में एक न्यूज आई थी कि आज़मगढ़ और सिवान के बैंकों में बहुत बड़ी मात्रा में फॉरेन करेंसी आई हुई है। ...(व्यवधान)...

†[**شری ابو عاصم اعظمی :** سر، میرے پرشن کا دوسرا پارٹ یہ ہے کہ ابھی ہم نے اخبار مین ایک نیوز پڑھی تھی، نیشنل سیکورٹی ایڈوائزر کے ذریعے اخبار میں ایک نیوز آئی تھی کہ اعظم گڑھ اور سیوان کے بینکوں میں بہت بڑی ماترا میں فورین کرنسی آئی ہوئی ہے۔مداخلت۔]

श्री सभापति: ठीक है, ठीक है क्वेश्चन करिए।

श्री अबू आसिम आज़मी: यह ISI और आतंकवादियों की है। सर, यह बड़ा सीरियस मैटर है, इस देश के एम्पलॉइमेंट को दूर करने के लिए, इस देश के अंदर फॉरेन करेंसी लाने के लिए और जो नौकरी के लिए फॉरेन में जा रहे हैं, वे इस देश की बढ़ती हुई पॉपुलेशन को रोकने में बहुत मददगार हो रहे हैं।

†[ ]Transliteration of Urdu Script.

†[**شری ابو عاصم اعظمی :** یہ آئی۔ایس۔آئی۔ اور آتنک وادیوں کی ہے۔ سر، یہ بڑا سیریس میٹر ہے، اس دیش کے ایمپلائمنٹ کو دور کرنے کے لئے، اس دیش کے اندر فورن کرنسی لانے کے لئے اور جو نوکری کے لئے فورن میں جا رہے ہیں، وہ اس دیش کی بڑھتی ہوئی پاپولیشن کو روکنے میں بہت مدد گار ہو رہے ہیں۔]

श्री सभापति: क्वेश्चन कीजिए।

श्री अबू आसिम आज़मी: सर, एक मिनट। यह बहुत इम्पोर्टेंट प्रश्न है। आज यहां नौकरी नहीं मिल रही है। लोग फोरेन जा रहे हैं। आजमगढ़ और सीवान के लोग, जो फोरेन जा रहे हैं, वे हंड्रेड परसेंट पैसा, जितना कमाते हैं, सब देश में भेजते हैं। उनको इनाम, एहतराम देने की बजाय, सम्मानित करने की बजाय, इस तरह के स्टेटमेंट आएंगे तो यह बहुत ही खतरनाक है। मैं यह जानना चाहता हूं कि क्या इस पर कोई इंक्वारी हुई है? अगर यह गलत है तो इस पर क्या कार्रवाई करेंगे?

†[**شری ابو عاصم اعظمی :** سر، ایک منٹ۔ یہ بہت امپورٹنٹ پرشن ہے۔ آج یہاں نوکری نہیں مل رہی ہے۔ لوگ فورن جا رہے ہیں۔ اعظم گڑھ اور سیوان کے لوگ، جو فورن جا رہے ہیں، وہ 100% پیسہ، جتنا کماتے ہیں، سب دیش میں بھیجتے ہیں۔ ان کو انعام، احترام دینے کے بجائے، سمّانت کرنے کی بجائے، اس طرح کے اسٹیٹمینٹ آئیں گے تو یہ بہت ہی خطرناک ہے۔ میں یہ جاننا چاہتا ہوں کہ کیا اس پر کوئی کاروائی ہوئی ہے؟ اگر یہ غلط ہے تو اس پر کیا کاروائی کریں گے؟]

SHRI P. CHIDAMBARAM: Sir, the National Security Advisor, while addressing a conference in Munich on February 11, 2007, stated and I quote that part:

"Isolated instances of terrorist outfits manipulating the stock markets to raise funds for their operations have been reported."

We requested him to furnish information whether any specific names or specific complaints were before him when he made that statement. The NSC Secretariat has since clarified that the speech mentioned about such possibilities and no specific names of companies were indicated.

†[ ]Transliteration of Urdu Script.

श्री अबू आसिम आज़मी: सर, आजमगढ़ और सीवान का बहुत इम्पोर्टेन्ट है। यह नेशनल सिक्योरिटी एडवाइजर के जरिए बयान किया गया है।

†[شری ابو عاصم اعظمی : سر، اعظم گڑھ اور سیوان کا بہت امپورٹینٹ ہے۔ یہ نیشنل سیکورٹی ایڈوائزری کے ذریعے بیان کیا گیا ہے۔]†

SHRI P. CHIDAMBARAM: Sir, the hon. Member would kindly appreciate that there is no specific information about any banks in Azamgarh or Siwan.

SHRI ABU ASIM AZMI: Sir, this news item has been reported in **The Times of India.**

SHRI P. CHIDAMBARAM: If the hon. Member has any information, I shall certainly look into it and get back to him.

SHRI ABU ASIM AZMI: Sir, we have given a letter to the Prime Minister and you, Sir, about this and this news item has been reported in **The Times of India.**

SHRI P. CHIDAMBARAM: Sir, I can't recall the letter. But I will certainly look into it and get back to him.

MR. CHAIRMAN: That is right. Shri Shahid Siddiqui.

SHRI ABU ASIM AZMI: Sir, this is a very serious issue.

SHRI SHAHID SIDDIQUI: Sir, a high power committee was appointed by the Government to look into this matter of foreign investment and the question of participatory notes. What report has the committee submitted? What are the salient features of this report? There are also reports in the newspapers that the RBI, which was also associated with the committee, had given a dissenting note. I would like to know why the RBI dissented from the committee report.

SHRI P. CHIDAMBARAM: Sir, the Ashok Lahiri Committee gave a report and in that report the majority view was that the current dispensation for participatory notes might continue. However, it recommended that the SEBI should have full powers to obtain information regarding final holders or beneficiaries at a given point of time in case of any investigation or surveillance action and that it should be made obligatory for FIIs to provide information to the SEBI. I may clarify that under SEBI regulations every FII is obliged to provide full information about the actual holder of a participatory

†[ ]Transliteration of Urdu Script.

note at a given point of time. It is true that the representative of the RBI had expressed a dissenting view. In his view the PNs should not be permitted. However, the Government, after considering the report, has taken the decision that the present dispensation of FIIs and participartory notes will continue subject to the SEBI being fully empowered to require FIIs to disclose the actual holders of PNs. That is the position broadly.

SHRI S.S. AHLUWALIA: Mr. Chairman, Sir, I would like to know from the Minister whether it is a fact that 60 per cent of the total inflow in the stock market is from FIIs and out of this 60 per cent, 40 per cent is through participatory notes. Since in his earlier reply he has responded to the HLCC report and the RBI report, he is aware of the latest US State Department report where they also mentioned that a lot of money was being invested in Indian stock market and in real estates. I would like to know whether he has inquired into this matter.

SHRI P. CHIDAMBARAM: What is the second part of the question? Please repeat.

SHRI S.S. AHLUWALIA: The US State Department has submitted in its latest report that the terrorists are investing money in two areas. One is the stock market in India and the other is real estate. I would like to know whether you are aware of it. If so, please share the information with the House.

SHRI P. CHIDAMBARAM: Sir, so far as the second part of his question is concerned, I am not aware of any US State Department report which said that terrorists were investing in the stock market in India. The report, to the best of my knowledge, talked about possibilites of terrorists investing in the stock market. I think, they may have some information about their own stock market. I cannot recall—I may be wrong; I can check it—any report by the US State Department which said terrorists were investing in the Indian stock market.

So far as the first part of his question is concerned, as of end of March, 2007, market capitalisation of NSE was Rs. 32,96,930 crores. Asset under management of FIIs was Rs. 5,47,010 crores which represents only 16 per cent of the market cap. Of this, the notional value of underlying Indian securities on the Participatory Notes was only Rs. 2,42,621 crore which amounts to 7 per cent of the market cap. Therefore, it may not be correct to conclude that PNs represent very large proportion of the stock based on market capitalisation.

SHRI PRAVEEN RASHTRAPAL: Mr. Chairman, Sir, the most important question which may arise out of the entire discussion on the subject is, India being one of the biggest democracies in the world is concerned about rule of law and laws of the land. Sir, I would like to have only one answer from the hon. Finance Minister. I would like to know whether the Indian banks in India and outside India are governed by the Indian rules or the foreign rules where they are situated. At the same time, I would like to know whether the foreign banks within the territory of India are governed by the Indian rules or foreign rules.

SHRI P. CHIDAMBARAM: Sir, I will be happy to answer the question provided the supplementary related to FIIs in the capital market. This supplementary relates to banks. All banks which are doing banking business in India are governed by the Indian laws.

SHRI DINESH TRIVEDI: Sir, I am quite surprised and also shocked by the answer of the hon. Finance Minister. The National Security Advisor is a very important position. He has made a very clear statement which was publicised very widely. He said, "Terrorists are investing in the Indian stock market." He then clarified, "There is a possibility." The question is: On what basis did he make this statement? Has the Minister gone into it in depth? Secondly, I would like to know whether the US Government—I do not know whether it is the State Department or the Foreign Department—has made this statement which also has been very widely publicised. If they have made this statement, which has been widely publicised, should we treat it as a piece of garbage and throw it away or the Minister has taken it seriously?

SHRI P. CHIDAMBARAM: Sir, I have already answered both parts of the question. But I will be happy to answer it once again. I have quoted the statement of the NSA. I have also quoted the clarification issued by the Secretariat. I cannot say anything beyond the clarification. If there is a specific name or specific company which has come to the notice of the Secretariat, I have no doubt in my mind that the NSA and the Secretariat will inform the Ministry of Finance and we will take action. There is SEBI, there is RBI and there are many other agencies in the country which keep a close watch on monies that are flowing into the country. Recently, this House and the Lok Sabha amended the Prevention of Money Laundering Act. That is another agency which keeps a close watch on flows of money, especially the money which is suspected to be laundered.

On the second part, Sir, as I said, I do not have the US Government's or the State Department's report before me. I am talking from recollection. I cannot recall a specific statement that terrorists' money is being invested in the Indian stock market. But certainly, now that the two hon. Members have drawn my attention to this statement, I will go through that statement once again and if any action has to be taken, we will take that action.

MR. CHAIRMAN: Shrimati Sushma Swaraj.

SHRI DINESH TRIVEDI: But are you satisfied that there is no terrorist money. ...*(Interruptions)*...

MR. CHAIRMAN: No, no. Shrimati Sushma Swaraj.

श्रीमती सुषमा स्वराज: धन्यवाद सभापति जी। सभापति जी, मंत्री जी ने अपने भाग 'ई' के जवाब में यह कहा है, "*adequate systems and safeguards to deal with illegal* activities on the Indian stock market are in place". मैं मंत्री जी से यह पूछना चाहती हूं कि जो पैसा foreign institutional investors के माध्यम से आता है, उसका कोई face नहीं होता, इसलिए जो भी terrorist money आ रहा होगा, वह illegal activity के सन्दर्भ में नहीं आता। इसलिए जो systems and safeguards in place हैं, वे उनसे deal नहीं कर सकते। मैं यह जानना चाहती हूं कि क्या वे कोई ऐसा mechanism बनाने की बात कर रहे हैं, जिससे आने वाले FIIs के पैसे का चेहरा उजागर हो सके और हम यह तय कर सकें कि यह पैसा आतंकवादियों का है और यह पैसा नान-आतंकवादियों का है, क्योंकि जब मैंने प्रिंट मीडिया में FDI खोली थी, तो मैंने FII को allow नहीं किया था, मैंने इसलिए allow नहीं किया था कि उसका कोई face नहीं होता, that money has no face? जब तक आप ऐसा कोई mechanism तय नहीं करेंगे, जिससे FII का face कम-से-कम आपको पता चल सके, तब तक आप terrorist और non-terrorist के बारे में तय नहीं कर पाएंगे।

SHRI P. CHIDAMBARAM: Sir, all FIIs are regulated entities in their respective jurisdictions. When an FII applies for registration in India, the SEBI examines that application very carefully. Sometimes, an application is kept pending for many, many months and only when the SEBI is satisfied that the FII is a regulated entity and is an entity that is complying with, the laws in the country of its jurisdiction, that FII is allowed to register in India. Once an FII is registered in India, it has to comply with the SEBI requirements. The question, of course, was about the participatory notes issued by the FII, and there I have answered that even the participatory note holder must be a regulated entity in the other country. At any given point of time, nobody—and I repeat, nobody—who is not a regulated entity

can hold an interest through a participatory note in an FII, which is investing in India. Now, the hon. Member's question was whether there are adeqate systems and safeguards. I have given a list of laws which we think are adequate and which we think sufficiently safeguard against any illegal activity in the stock market. But, I would be the first person to admit that there is no such thing as the last word on the subject. If there are any suggestions how these laws can be strengthened, if there are any suggestions of what further laws have to be made, I am willing to listen to those suggestions. But, at the moment, these are the laws in place, and we think that these laws at present are enough to deal with illegal activities. But I am open to any suggestion.

SHRI ROBERT KHARSHING: Mr. Chairman Sir, I would like the hon. Minister to refer to his answer to part(e) of the question where he mentions about the Foreign Exchange Management Act, Prevention of Money Laundering Act and Unlawful Activities Act, 1967. All these suspicions, all these security risks, could be avoided if only he decides to implement what the Ministry of Finance's own High Powered Committee headed by Mr. Percy Mistry had recommended that by next year the rupee should be totally free. May I know from the hon. Minister what his views on those recommendations of the committee set up by his own Finance Ministry are.

SHRI P. CHIDAMBARAM: Sir, the Percy Mistry Report....

MR. CHAIRMAN: Be short please.

SHRI P. CHIDAMBARAM: Sir, the Percy Mistry Report is a roadmap for the future. The Percy Mistry Report has been received in the Ministry. It is being examined. We will hold a large number of workshops and seminars to elicit public comment and public opinion. In fact, Sir, I should be the last person to express an opinion on the Percy Mistry Report. If I express an opinion now, then what is the examination of the Report? So, I am waiting for this exercise to be completed. It will take time, and then the Government will take a decision on the Percy Mistry Report. It is not possible now to give an opinion on any recommendation of the Percy Mistry Report.

MR. CHAIRMAN: Question Hour is over.